



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 2104-01
17 July 2002

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 16 July 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 13 April 1954 at age 17. On 21 March 1955 you were convicted by a special court-martial of an unauthorized absence of about 136 days and three instances of disobedience. The court sentenced you to forfeitures of pay and three months confinement at hard labor. While in confinement, you received nonjudicial punishment for a violation of brig regulations. Subsequently, you were returned to duty and, on 29 August 1955, you completed recruit training.

On 4 October 1955, you received another NJP for violation of an order not to hitchhike. You then served without incident until 2 April 1956. On that date you began a period of unauthorized absence that lasted until you were apprehended on 18 June 1956. A special court-martial convened on 9 August 1956 and convicted you of the foregoing period of unauthorized absence of about 76 days and missing ship's movement on 2 April 1956. The court sentenced you to reduction to pay grade E-1, forfeiture of \$55 pay per month for six months, confinement at hard labor for six months and a bad conduct discharge. On 9 October 1956, you elected to waive your right to request restoration to duty. The bad conduct discharge was issued on 22 December 1956.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and limited education. The Board also considered the character references you submitted that show that you have been a good citizen for many years. The Board found that these factors were not sufficient to warrant recharacterization of your discharge given your record of misconduct and especially your final lengthy periods of absence. The Board believed that after being convicted by a previous special court-martial for unauthorized absences, you had to know the possible consequences of further misconduct of this nature. The Board believed that your final unauthorized absence was indicative of willful misconduct. The Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director